

MINUTES
YORK COUNTY PLANNING COMMISSION

Regular Meeting
York Hall
October 10, 2001
7:00 PM

MEMBERS

Spencer W. Semmes, Chair
Andrew A. Simasek, Vice Chair
Robert E. Beil, Jr.
Robert D. Heavner
Michael H. Hendricks
Thomas G. Shepperd
Ann F. White

CALL TO ORDER

Chair Spencer Semmes called to order the regular meeting of the Planning Commission at 7:00 p.m.

The roll was called and all members were present. Staff members present were J. Mark Carter, James E. Barnett, Jr., Timothy C. Cross, Michael S. King and Olivia D. Wilkinson.

APPROVAL OF MINUTES

Mrs. White moved to adopt the minutes of the regular meeting of September 12, 2001 and they were approved unanimously by roll call vote (7:0).

REMARKS

Mr. Semmes welcomed visitors and explained the legal mandate of the Planning Commission, its composition of citizen volunteers, and its mission as an advisory body to the Board of Supervisors for land use issues.

CITIZEN COMMENTS

There were no citizen comments.

PUBLIC HEARINGS

Application No. UP-582-01, Kenneth Dale Moore: Request for a special use permit, pursuant to Section 24.1-306 (Category 17, No. 7) of the York County Zoning Ordinance, to authorize the construction of a 199-foot monopole communications tower located at 229 Redoubt Road (Victory Industrial Park) to support antenna for PCS digital wireless communication.

Mr. Michael King summarized his memorandum to the Commission dated October 2, 2001, in which the staff recommended approval of this application.

Mr. Beil asked how far the proposed helipad would be constructed from the proposed tower, to which Mr. King replied that the helipad, which is for the exclusive use of the applicant, a licensed pilot, would be approximately 50 feet from the tower. Mr. Shepperd asked if the staff has considered camouflaged towers for the County and Mr. King said they have been discussed; however, not all sites are suitable, and the County endeavors to site communication towers in locations that provide natural camouflage or other ways to lower the visibility of the towers. Mr. King said that the staff is looking at stealth tower opportunities for the Seaford, Dare, and Calthrop Neck areas.

Chair Semmes opened the public hearing.

Mr. Lamont Myers, Mid Atlantic Commercial, spoke in behalf of the applicant. Mr. Myers believed the tower would provide continuity to the telephone communication network in the County. He found it hard to imagine a less intrusive site than an industrial site that adjoins a landfill, as is proposed for the subject tower. Replying to Mr. Beil, he said the access to the tower would be through property also owned by the applicant.

The public hearing was closed.

Mr. Shepperd said the proposed site is ideal for this tower because it is an industrial park, but suggested that the County consider requiring some camouflaged towers for use in residential areas in the future because many citizens are concerned about their proliferation.

Mr. Shepperd moved approval of Resolution PC01-29, which was approved 7:0 and reads as follows:

PC01-29

On motion of Mr. Shepperd, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT TO AUTHORIZE THE CONSTRUCTION AND MAINTENANCE OF A 199-FOOT SELF-SUPPORTING MONOPOLE COMMUNICATIONS TOWER AND ASSOCIATED EQUIPMENT AT 229 REDOUBT ROAD

WHEREAS, Kenneth Dale Moore has submitted Application No. UP-582-01, which requests a special use permit pursuant to Section 24.1-306 (Category 17, No. 7) of the York County Zoning Ordinance to authorize construction and maintenance of a 199-foot freestanding monopole communications tower with associated equipment on the parcel located at 229 Redoubt Road (Victory Industrial Park) and further identified as Assessor's Parcel No. 24 (60)-28; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 10th day of October, 2001, that Application No. UP-582-01 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize construction and maintenance of a 199-foot freestanding monopole communications tower with associated equipment at 229 Redoubt Road (Victory Industrial Park) and is further identified as Assessor's Parcel No. 24 (60)-28 subject to the following conditions:

1. This use permit shall authorize the construction and maintenance of a 199-foot freestanding monopole communications tower with associated equipment.
2. The applicant shall comply with all performance standards specified in Sections 24.1-493 and 24.1-494 of the Zoning Ordinance.
3. A site plan prepared in accordance with Article V of the York County Zoning Ordinance shall be submitted to and approved by the County prior to commencement of land clearing or any construction activity on the subject property. Except as modified herein, said plan shall be substantially in conformance with the sketch plan submitted by the applicant a copy of which is located in the application files for this request maintained by the York County Department of Environmental and Development Services. As part of the site plan submittal, the applicant shall prepare a frequency intermodulation study to determine the impact on current communication transmissions for the York County Departments of Fire and Life Safety and General Services, Sheriff's Office, School Division, and the Intrac Sewer Telemetry System. Should any equipment associated with this facility at any time during the operation of the tower be found by the County to cause interference with County communications, the applicant shall be responsible for the elimination of said interference within twenty-four (24) hours of receipt of notice from the County.
4. The applicant must submit to the County a statement from a registered engineer certifying that NIER (nonionizing electromagnetic radiation) emitted from the tower does not result in a ground level exposure at any point outside such facility that exceeds the maximum applicable exposure standards established by any regulatory agency of the U.S. Government or the American National Standards Institute.
5. A report from a registered structural or civil engineer shall be submitted indicating tower height and design, structure installation, and total anticipated capacity of the structure (including number and types of users that the structure can accommodate). These data shall satisfactorily demonstrate that the proposed tower conforms to all structural requirements of the Uniform Statewide Building Code and shall set out whether the tower will meet the structural requirement of EIA-222E, "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."
6. Advertising and signage on the tower shall be expressly prohibited, except for warning signs associated with the operation of the tower or its equipment.
7. Prior to site plan approval, the applicant shall submit written statements from the Federal Aviation Administration, Federal Communications Commission, and any other review authority with jurisdiction over the tower, stating that the proposed tower complies with regulations administered by that agency or that the tower is exempt from those regulations.
8. As part of the site plan submittal, a landscape plan shall be included which is consistent with Section 24.1-242 of the Zoning Ordinance. The base of the tower, including related equipment,

shall be screened from view utilizing evergreen planting material deemed acceptable to the County.

9. If at any time use of the tower ceases, the owner of the subject property on which the tower is located shall dismantle and remove it within six (6) months after ceasing to use it, unless:
 - (1) A binding lease agreement or letter of intent with another wireless communications provider has been executed in which case an additional six (6) months shall be granted. If a letter of intent is provided, the execution date for a binding lease agreement shall not extend more than (12) months beyond the time the use of the tower ceases.
 - (2) The county requests, in writing, that the tower be reserved for county use.
10. Unused upper portions of towers shall be removed within six (6) months of the time of antenna relocation to a lower position on the tower unless a binding lease agreement with another wireless communications provider has been executed in which case an additional six (6) months shall be permitted for the upper portion to be used. Surety to guarantee removal shall be posted during the time in which the upper portion of the tower is unused. Removal and bonding shall not be required if the unused upper portion does not consist of an entire manufactured section of tower, or if the county requests, in writing, that the upper portion be reserved for county use. The replacement of portions of a tower previously removed requires the issuance of a new conditional use permit.
11. Accessory facilities shall not include offices, vehicle storage, or outdoor storage unless permitted by the district regulations.
12. Evidence shall be provided within ninety (90) days upon of receipt of building permit that the Virginia State Corporation Commission has been notified that a communication facility has been constructed or the use permit shall be considered null and void.
13. The equipment building and associated equipment shall be completely enclosed by a security fence to the satisfaction of the County.
14. The communication tower shall have a galvanized finish that is gray in color. Should Federal Aviation Administration requirements dictate special markings, tower lighting shall be used in lieu of multi-color painting. If painting is required, a tower maintenance plan shall be submitted and approved by the County.
15. No microwave dishes, conical shaped antennae, or other dish over three feet (3') in diameter shall be permitted on the tower without approval of the York County Board of Supervisors by resolution.
16. The communications tower shall be structurally designed to accommodate no fewer than three (3) wireless users capable of supporting either PCS or cellular antenna arrays. If space is available, the County shall have the right of first refusal for leasing a space on the tower to place an antenna in support of operations consistent with the County's Department of Fire and Life Safety.
17. Significant modifications to a previously approved communications tower as determined by the Zoning Administrator shall require that a new use permit application be submitted for review in

accordance with the provisions of this section. Modifications can be administratively approved if the Zoning Administrator determines the modification to be minor.

Application No. UP-583-01, Iyobosa Associates, Inc: Request for a Special Use Permit, pursuant to Sections 24.1-283(a) and 24.1-283(e) of the York County Zoning Ordinance, to authorize the operation of a limousine service as a home occupation at 100 Douglas Drive.

Mr. Tim Cross presented a summary of the staff memorandum to the Commission dated October 2, 2001. He noted the staff recommendation of denial but the inclusion of a resolution to recommend approval, should that be the Commission's desire.

Mr. Semmes inquired about access to the applicant's carport, and Mr. Cross said access presumably would be through the side yard facing Merrimac Trail. He added that a condition of approval would require the applicant to install an all-weather, hard-surface driveway, and another condition would prevent direct access to Route 143. There is also a provision that the carport would be enclosed, he added.

Mr. Shepperd asked how the County became aware of the applicant's violations in March 2000; Mr. Cross said the County staff observed some violations and reported them to the appropriate zoning and code enforcement personnel.

Ms. White noted that the application was for four limousines to be parked at the residence but the conditions imposed by the resolution of approval would limit the number to two; Mr. Cross said that is correct and explained that when two non-resident employees' automobiles are parked on the premises along with four limousines, the number of vehicles on the property would exceed the maximum of five parked vehicles allowed for a home occupation. Therefore, the staff proposes to limit the number of allowed limousines to two.

The Chair opened the public hearing.

Mr. Joseph Osamwonyi, 100 Douglas Drive, spoke in behalf of approval of his application. [A complete transcript of Mr. Osamwonyi's remarks to the Commission is attached to the minutes of record.]

Mr. Osamwonyi indicated that he was forced out of business by the County in August, 2001, and has subsequently filed the subject application for a special use permit to garage up to four limousines at his residence as a home occupation. Mr. Osamwonyi detailed his disagreements with the County from 1996, when he began garaging his business limousines at his residence, until August 27, 2001 when, he asserted, he was forced out of business by a court order to remove the limousines from his residence property. He also cited certain sections of the County Code that he believed would support approval of his application: Sections 24.1-273(d) and 273(f); 24.1-280; 24.1-281; 24.1-293(a), 293(b)(2) and (b)(3), and 24.1-283(e).

Mr. Osamwonyi said he is attempting to re-establish the business administration from his office at 295 McLaws Circle, Williamsburg, housing the limousines at his residence at 100 Douglas Drive, and depending upon resident and non-resident drivers for the limousine service.

Mr. Osamwonyi requested approval because he had been harmed by the actions of some County officials during the past 19 months; he has community support from Carver Gardens residents; he received no complaints from neighbors and community members while he operated the business; the surrounding community is heavily commercial; more noise is generated by trains that regularly pass through the area than would be generated by his limousine service; and he paid property taxes on the limousines from 1996 to 2001. He indicated that the zoning to conduct the limousine business from his home was approved in 1996, whereupon he applied for and received a business license to conduct such business, but approval was rescinded in 2001 and he could not obtain County approval to renew the business license. He objected to the staff recommendation for denial, and further indicated that the County would be making a terrible mistake by denying his application and he added that denial would violate his constitutional and federal civil rights.

Mr. Simasek inquired about the business-related taxes paid by Mr. Osamwonyi, and the applicant explained that he pays York County property taxes on the limousines and City of Williamsburg business taxes for his office.

Ms. Eleanor Osamwonyi, 100 Douglas Drive, spoke in favor of approval of her husband's application. She said the couple work hard not to burden the state or the county. York County is steeped in tradition, she said, adding that she and her husband had encountered various types of negative attitudes since moving from another state and establishing their business in York County. They believe the Constitution should be a living document, but Ms. Osamwonyi thought their rights to free enterprise had been denied and they are being used as an example because they have challenged the system. She said they pay their share of taxes and have been licensed to operate their limousine business by the County. She said their neighbors have no problems with their operation, and some believe they have raised the standards of the community.

Mr. Joseph Edwin, 103 Douglas Drive, spoke in behalf of the applicants saying they are good neighbors, make no noise, are trying very hard to make their business a success and need our help.

There being no others who indicated a desire to speak, the Chair closed the public hearing.

Mr. Shepperd indicated he was affected by a petition submitted with the application in which over 100 neighbors of the applicants had encouraged approval of the use permit, and also recognized that the applicants are trying to start over again. He asked what kind of precedent the County would be setting by approving their application.

Mr. Carter noted that a use permit is not precedent-setting because each is evaluated based on its individual merits and characteristics. He added that many of the commercial areas cited by the applicant are located on Merrimac Trail not in York but in Williamsburg or James City County. The concern for York County is that this type of business could contribute to a trend to convert homes in the Carver Gardens neighborhood into business operations, as is happening farther north on Merrimac Trail in the direction of Williamsburg. Another concern is that, while Mr. Osamwonyi is requesting

limousine parking at his home, another type of application might request a home plumbing business that could have three or four commercial vehicles, he added.

Mr. Shepperd said that since the neighbors have no problem with the request, and considering the fact there is an active railroad track in the area, he would have no problem supporting approval.

Mr. Simasek asked why the request would be classified as a business since Mr. Osamwonyi conducts the administrative portions of his business at another location. Mr. Barnett indicated that nowhere in the Zoning Ordinance is there a category of home occupation that provides for offsite storage of business-related equipment, particularly for a business that operates in an adjacent jurisdiction.

Discussion continued about the limitations imposed on using a home carport as a storage area for business vehicles, ferrying the limousines between the home and the McLaws Circle address by non-resident employees, and the increased activity levels in the neighborhood because of those activities.

Mr. Heavner noted that the applicant had indicated in his statement that the proposed conditions would not be satisfactory to him, in any case, because they would limit the number of limousines and the hours of operation in such a manner as to make the business unsustainable.

Mr. Osamwonyi indicated the staff is trying to put him out of business by requiring that his business close at 8:00 p.m. He said he sometimes arrives home in his personal automobile later than midnight from his job as an investigator and does not disturb anyone. He added that the trains make far more noise than do any of his operations.

Mr. Shepperd suggested tabling the application for the staff to study it further.

Mr. Hendricks commended the applicant for a lucid, articulate and well-researched argument. He was convinced, however, that the applicant wanted to operate a commercial business that would be better suited to a commercial district. The issue, he said, is land use, and this business is inappropriate for a high-density residential district. He did not see any need to table the application or return it to staff for more study.

Mr. Beil agreed with Mr. Hendricks.

Mr. Simasek sympathized with the applicant's frustration. He suggested the County might consider a zoning change in the area, but did not think the concept of a special use permit was ever intended to permit storing or operating limousines from a neighborhood. He supported the staff recommendation.

Ms. White said she had observed limousines parked in an unorganized, unsightly manner in the front yard of the property. She felt a covered garage would be more appropriate if the business was allowed at the home. However, although their neighbors support the applicants, the neighbors have worked hard for many years to keep the neighborhood very nice, for which they are to be commended. She wondered if they had considered how a business of this type might affect their property values.

Mr. Semmes concurred that the real issues are land use and scale. One limousine, he believed, would be unobtrusive, but four "would cross the line into a commercial venture." The Code is clear as to

what a home occupation is, he added, and the operation of an office could be an appropriate home occupation, but parking commercial vehicles in relatively large numbers is not. He applauded Mr. Osamwonyi's entrepreneurship and hoped Mr. Osamwonyi could find a suitable location nearby in which to garage his business vehicles.

Mr. Shepperd opined that land use is not "one size fits all" and still did not object because the neighboring homeowners expressed no objections.

Mr. Hendricks moved to adopt Resolution PC01-30 to recommend approval. On roll call vote, the motion failed by a vote of 2:5 (Yes: Heavner, Shepperd. No: Simasek, Beil, White, Hendricks, Semmes).

Application No. UP-584-01, Robert and Sheri Mann: Request for a special use permit, pursuant to Section 24.1-306 of the York County Zoning Ordinance (category 1, number 6), to authorize the expansion of an existing accessory structure, in conjunction with a single-family dwelling, for the purpose of operating a bed and breakfast establishment. In the event that the bed and breakfast special use permit is denied, the applicant requests a special use permit pursuant to section 24.1-407(c) to authorize the expansion of the structure, in conjunction with a single-family dwelling, for the purpose of establishing a one-bedroom accessory apartment for use by family and guests.

Ms. Olivia Wilkinson made a presentation summarizing the staff report to the Commission dated October 1, 2001. She noted the applicant's desire for and staff's recommendation of approval of a bed and breakfast. In the event, however, that the Commission does not recommend approval of a bed and breakfast establishment, the applicant has requested approval of an accessory apartment, which also would merit staff approval.

Mr. Hendricks asked if the application satisfies requirements for a bed and breakfast, and Ms. Wilkinson responded that it does. Mr. Simasek wanted to know if the finish of the accessory building would be consistent with that of the main dwelling and Ms. Wilkinson replied that it would.

Chair Semmes opened the public hearing.

Mr. Robert Mann, 121 Lafayette Road, spoke for approval of his application for a bed and breakfast facility as a home occupation. He proposed a two-suite establishment with off-street parking on a gravel driveway. Mr. Mann thought it would fit well within the context of the neighborhood. Mr. Greg Brezinski is the architect and designer of the accessory structure, he said, and the design complements the Dutch Colonial design of the main dwelling and other homes in the neighborhood. Mr. Mann said he felt the gregarious nature shared by him and Mrs. Mann would contribute to their success as innkeepers. He added that the majority of their neighbors are very supportive of their proposal for a bed and breakfast.

Mr. Heavner inquired about plans for advertising the bed and breakfast. Mr. Mann said he would likely confine advertising to regional publications that focus on historic travel. He added that, while the proposed conditions allow signage, he does not intend to use any sign for advertising.

Mr. Clemons A. Powell, 117 Lafayette Road, was strongly opposed to a bed and breakfast. He saw no potential benefit to the neighborhood and thought it could be a detriment, noting the roads are very narrow lanes and additional traffic would endanger children and other residents. He thought the business would depreciate property values and set a precedent for establishing other such businesses in Yorktown. Mr. Powell was also opposed to the use of the accessory structure as a guest cottage because it could evolve into a bed and breakfast or a rental unit. He said the former owners of the property had applied many years ago to get approval for a bathroom in the accessory structure so they could use it as a guest cottage, and were denied.

Chair Semmes closed the public hearing.

Mr. Semmes inquired if public water and sewer are provided to the property and, if so, if the sewer size would accommodate an additional structure. Ms. Wilkinson said the property is served by public water and sewer and during plan review the County and Health Department staffs would determine if a bathroom could be added.

Responding to Mr. Beil, Ms. Wilkinson said the two units would not have separate utility meters.

Mr. Semmes asked the Commission to include both options, the bed and breakfast and accessory apartment, in its discussions and recommendations to the Board of Supervisors.

Mr. Hendricks said he was not opposed to an accessory detached apartment.

Mr. Simasek noted that the County has committed a large amount of resources to identifying Yorktown as a tourist area, and depends on tax revenues generated by tourism. He thought the atmosphere of Yorktown is more suitable for a bed and breakfast than for a motel. He supported approval of a bed and breakfast.

Mr. Hendricks asked if the parcel is located in the Yorktown Historic District; Ms. Wilkinson said it is not.

Mr. Semmes agreed with Mr. Simasek and would recommend a bed and breakfast because of its compatibility with the neighborhood and that the number of people occupying two rooms and their traffic should not cause a negative impact. He would be less supportive of an accessory apartment, he said, partly because of the potential to convert it to a rental unit.

Ms. White was supportive of a bed and breakfast but was not sure she could support the alternative request for an accessory apartment.

Mr. Shepperd asked how the bed and breakfast would differ from an accessory apartment, and Ms. Wilkinson noted the condition in proposed Resolution PC01-31 limiting occupancy to overnight guests. Mr. Carter added that, while the County has no absolute guidelines for how many days a bed and breakfast unit can be rented, routine conditions imposed for accessory apartments prevent their being rented out and restrict their use to family members, thereby precluding their use as bed and breakfast businesses.

Mr. Simasek moved the adoption of Resolution PC01-31 recommending approval of a bed and breakfast, and it was adopted 6:1 (Mr. Hendricks opposing). It reads:

PC01-31

On motion of Mr. Simasek, which carried 6:1, the following resolution was adopted:

**A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT
TO AUTHORIZE A BED AND BREAKFAST INN AT 121 LAFAYETTE ROAD**

WHEREAS, Robert and Sheri Mann have submitted Application No. UP-584-01 to request a special use permit, pursuant to Section 24.1-306 of the York County Zoning Ordinance (category 1, number 6) to authorize the expansion of an existing accessory structure in conjunction with a single-family dwelling, for the purpose of operating a bed and breakfast establishment located at 121 Lafayette Road and further identified as Assessor's Parcel No. 19A-(1)-F-12; and

WHEREAS, said application has been referred to the York County Planning Commission; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application in accordance with applicable procedure; and

WHEREAS, the Commission has given careful consideration to the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 10th day of October, 2001, that Application No. UP-584-01 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a Special Use Permit, pursuant to Section 24.1-306 (category 1, number 6) of the York County Zoning Ordinance, subject to the following conditions:

1. This use permit shall authorize the expansion of an existing accessory structure in conjunction with a single-family dwelling, for the purpose of operating a two-suite bed and breakfast establishment on property located at 121 Lafayette Road and further identified as Assessor's Parcel No. 19A-(1)-F-12. Rental of rooms shall be limited to overnight guests as opposed to long-term boarders. The owner's living quarters in the principal dwelling shall be the only dwelling unit permitted on the property.
2. The owner/operator of the bed and breakfast establishment shall reside on the premises and maintain the property primarily as a single-family residence with the bed and breakfast operation constituting an accessory use.
3. A site plan and building plans, prepared in accordance with Article V of the York County Zoning Ordinance and the BOCA Building Code and in substantial conformance with the sketch plans and elevations submitted by the applicant shall be submitted to and approved by the York County Department of Environmental and Developmental Services prior to the establishment of the bed and breakfast operation. The plan shall describe the interior of the building in sufficient detail to determine compliance with parking, health, and building code requirements. In addition, all existing and proposed off-street parking areas shall be identified and installed according to

specifications outlined in Article VI of the York County Zoning Ordinance. No off-site parking provisions will be allowed.

4. One (1) freestanding, non-illuminated sign, not exceeding four (4) square feet in area, shall be permitted to identify the use.
5. The proposed use shall be connected to public water and sanitary sewer service.
6. The maximum occupancy of the bed and breakfast establishment shall be six (6) persons if operated as a two (2) suite facility.
7. Retail sales on the premises shall not be permitted.
8. All conditions listed in Section 24.1-409 of the Zoning Ordinance shall be observed.
9. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

Mr. Hendricks then moved to adopt Resolution PC01-32 recommending approval of an accessory apartment. It was defeated 3:4 (Yes: Heavner, Hendricks, Simasek. No: White, Shepperd, Beil, Semmes).

RECESS/RECONVENE

The Chair called a recess at 9:00 p.m., and reconvened the meeting at 9:10 p.m.

PUBLIC HEARINGS, continued.

Application No. ZM-61-01, Moore & Sarfan Associates: Request to amend the proffers of a conditional rezoning application approved in 1999. The original proposal was to develop a 25-lot subdivision on Yorkville Road near its intersection with Lakeside Drive subject to voluntarily proffered conditions. One condition was that there would be no more than seven (7) driveways providing access from the residential development onto Yorkville Road (State Route 658) and that each driveway would be capable of serving more than one (1) lot. The applicant now wishes to amend that condition by deleting combined driveways for ten of the 25 lots, resulting in a net increase of five driveways on Yorkville Road over what was approved by the Board

Mr. Tim Cross summarized the staff memorandum to the Commission dated September 25, 2001, in which the staff recommended denial by adopting Resolution PC01-35. Mr. Cross noted the attached Resolution PC01-34 to recommend approval, should the Commission so desire.

Mr. Cross knew of no reasons for requesting the rezoning, from the County perspective, other than what had been stated in the original application, except that the developer indicated he is having difficulty marketing the subdivision or finding builders who are willing to develop it with a shared driveway concept.

The Chair opened the public hearing.

Mr. John Matthews, 101 Mill Road, the applicant's representative, asked, "Is there a difference between 25 driveways and 20 driveways on Yorkville Road between Charles Road and the curve?" He discussed several items of communication between his client and the Virginia Department of Transportation between 1997 and 1999 that brought him to the conclusion that "there will be 20 to 25 driveways regardless of what the Commission recommends and regardless of the Board action," because "the McDonald tract is going to be developed as a cluster subdivision [and] the cluster subdivision is done administratively." Therefore, he concluded, the driveways ultimately built on the McDonald property, when added to his client's development, would total 20 to 25 driveways on the section of Yorkville Road between Charles Road and the curve.

Mr. Matthews said the Subdivision Ordinance defines "access points" as *any* access to a minor collector road, not only residential access, as Mr. Cross indicated in his presentation. Mr. Matthews mentioned correspondence from the Virginia Department of Transportation that he said indicated no objection by VDOT to the applicant's proposal for more driveways on Yorkville Road; and a wetlands delineation map drawn by the Corps of Engineers showing that the distance between wetlands and Yorkville Road would preclude anything other than a cluster development that would have lots fronting on Yorkville Road. He further stated that there is no research that suggests that combining driveways has a positive impact on safety and capacity on a 35 or 25 MPH road.

Mr. Matthews stated that the applicant, Mr. Sarfan, has owned the land since 1982 and has designed \$100,000 lots and maintained there is no development in the County with \$100,000 lots and joint driveways. He said the applicant does not want to use joint driveways "for a \$250,000 to \$300,000 package," and that they don't belong in York County.

Mr. E. A. Brummer, 108 Oyster Cove Road, found it interesting that it was the applicant who initially proposed combined driveways for the development. He said Mr. Matthews has selected sections of the Subdivision Ordinance that deal with his current proposal, such as roads within and access roads to subdivisions, because they show that for a subdivision you need one or two main entry roads, but all of the collector roads serve the residents. He suggested that the County correct "this problem with the Zoning Ordinance before it comes up again." He did not believe that internal collector roads are possible with the kind of homes that the applicant envisions for the property.

Mr. Ken Pierpont, 204 Cedar Point Crescent, wholeheartedly supported denial. He said Yorkville Road is a major collector that serves 235 homes in four subdivisions and is inadequate to serve another 100 or more residents in the subdivision being developed by the applicant. Mr. Pierpont suggested that the County require the applicant to pave and gutter the planned subdivision, and provide on-street parking for guests of its residents and safer access and egress on Yorkville Road. [The transcript of Mr. Pierpont's comments is attached to the minutes of record.]

Mr. Judson Nuckols, 136 Lorna Doone Drive, was alarmed at the potential for accidents with the addition of 20 driveways, let alone 25 driveways, in the area of the curve, and the likelihood that emergency vehicles and residents to get around any accidents that would occur there. He also thought property values would decrease if a subdivision is built off of Yorktown Road. He strongly recommended denial.

Mr. Jack H. Thompson, 113 Wind Forest Lane, represented Winders Pond Homes Association and spoke about increased traffic and the need for a traffic light at the intersection of Yorkville Road and Lakeside Drive. He requested the developer be required to preserve as many trees as possible and to ensure the maintenance of stormwater drainage from Winders Pond to the Poquoson River.

Mr. Richard W. Duffy, 102 Bayview Drive, was concerned primarily about safety. He said Yorkville Road is very narrow and curvy and as long as it is in its present condition the application should be denied.

Mr. Gene Barton, 208 Walden Drive, stated that his community was opposed to the increased density in 1997 when it was subsequently denied. The community is not opposed to development per se, he said, but is opposed to the type of density and access requested and concerned about the unsafe conditions that could result. He said the applicant has obscured the facts by describing what might happen when the McDonald property is developed, but that is not relevant to the application.

Mr. John Powell, 137 Lorna Doone Drive, said he was opposed primarily because the area has a long history of large lots, and that alone would limit driveway access to roads. He would be concerned about this setting a precedent for future development. Yorkville Road is the only access to his property, and initial approval of the development was probably an egregious error to start with. He said allowing 25 driveways over 20 driveways is a 25 percent increase, and that would be in addition to the approved number driveways that probably should not have been approved from the start.

Mr. Philip Delp, 134 Lorna Doone Drive, was opposed to an increased number of driveways off Yorkville Road. He said he had spoken in opposition each time the applicant appeared before the Board of Supervisors, in 1997 and 1999. He said the applicant had used questionable methods to compute developable area. He said when the applicant got what he requested in 1999, he should accept that. Local government should be responsive, and he was concerned that his property values would decrease because of more driveways on Yorkville Road. He didn't think anything could be improved by adding sidewalks or curbs and gutters.

Ms. Beverly Goodman, 5 Callis Lane, Poquoson, said she had been employed at VDOT when the initial application was approved, and VDOT had determined the development met all of the Department's conditions and there were no safety concerns.

Mr. Al Sprague, 132 Lorna Doone Drive, was opposed because of traffic and safety concerns. He predicted more vehicle accidents if the number of cars increases over the present number that travel Yorkville Road.

Mr. Glenn A. Brehm, 204 Pinehurst Drive, was opposed to an increase in the number of driveways onto Yorkville Road, which he characterized as 1.3 miles long with 20 driveways from Lakeside Drive to the end of Yorkville Road. He said the section for the proposed additional driveways is two-tenths of one mile which also happens to be near a blind corner on a section of Yorkville that receives little sun, causing ice and snow to take longer to melt. It is forty years old and has the characteristics typical of "a country back road." It has drainage ditches on either side preventing turning a car around on either side. There are no streetlights on Yorkville Road, he added. If it is approved, Mr. Brehm

recommended the proposed subdivision be required to have a third lane to accommodate on-street parking.

Ms. Pam Baxter, 205 Bayview Drive, said she is a realtor and would like to market the property for the applicant.

There were none others to speak, and Chair Semmes closed the public hearing.

Mr. Hendricks said the conditions imposed in 1999 were for the specific purpose of rezoning the property and he has heard nothing in the presentation to cause him to support the current request.

Ms. White said that collector roads should be respected for the purpose for which they are designed, and cluttering them with driveways does not respect their purpose.

Mr. Heavner was definitely opposed to approving the application. He felt the marketing problem indicated by the applicant is not within the purview of the Commission to resolve.

Mr. Simasek told the speakers they were eloquent and their opinions are important. He added he was opposed to recommending any changes in what had been previously approved.

Mr. Beil was not in favor of any additional driveways on Yorkville Road and had no reason to change his previous opposition to this application.

Mr. Semmes thought the County and the developer had resolved a problem by reducing the number of driveways in 1999, eliminating one of the more egregious concerns with the property and still believes a reduction in the number of driveways is a good thing. He was opposed to any revisions to the existing zoning of the property.

Mr. Hendricks moved adopting Resolution No. PC01-35, recommending denial. It was approved unanimously, 7:0.

PC01-35

On motion of Mr. Hendricks, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND DENIAL OF AN APPLICATION TO AMEND THE CONDITIONS OF A PREVIOUS REZONING BY DELETING THE REQUIREMENT FOR COMBINED DRIVEWAYS ON YORKVILLE ROAD

WHEREAS, the Board of Supervisors approved Application No. ZM-40-99 to amend the York County Zoning Map by reclassifying from RC (Resource Conservation) to R20 (Medium-density single-family residential), subject to conditions voluntarily proffered by the property owner, a 28.2-acre parcel of land located on Yorkville Road (Route 658) approximately 450 feet south of its intersection with Lakeside Drive (Route 620) and further identified as Assessor's Parcel No. 30-137; and

WHEREAS, one of the conditions of said Zoning Map amendment was that there would be no more than seven (7) driveways providing access from the residential development onto Yorkville Road (State Route 658) and that each driveway would be capable of serving more than one (1) lot; and

WHEREAS, Moore & Sarfan Associates have submitted Application No. ZM-61-01, which seeks to amend the proffered conditions by deleting combined driveways for ten of the 25 lots, resulting in a net increase of five driveways on Yorkville Road over what was approved by the Board; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 10th day of October, 2001, that Application No. ZM-61-01 be, and it hereby is, transmitted to the York County Board of Supervisors with a recommendation of denial.

NEW BUSINESS

Mr. Cross recommended that the Commission sponsor a zoning map amendment to correct a previous inadvertent reclassification of two parcels in 1985, as presented in the staff memorandum to the Commission dated October 10, 2001. Mr. Hendricks moved the adoption of Resolution PC01-36 to sponsor the amendment as recommended by staff.

PC01-36

On motion of Mr. Hendricks, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO SPONSOR AN APPLICATION TO RECLASSIFY TWO PARCELS THAT WERE INADVERTENTLY RECLASSIFIED AS PART OF THE COMPREHENSIVE REZONING OF THE COUNTY IN 1985 AND 1995

WHEREAS, it has been brought to the attention of the Commission that two parcels located on the east side of Wolfrap Road (Route 630) may have been inadvertently reclassified during the comprehensive rezoning of the County in 1985 and 1995; and

WHEREAS, as a result of updated and more accurate property boundary information, as well as a change in ownership of one of the parcels, it appears that good zoning practice would indicate that amendment of the current boundaries is in order.

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 10th day of October, 2001, that the Planning Commission hereby sponsors an application to amend the York County Zoning Map by reclassifying portions of the following parcels as indicated:

- Parcel No. 24-244, 1216 Wolfrap Road, Estate of Horace Evans: Reclassify the rear (eastern half) of the property from RC-Resource Conservation to RR-Rural Residential.

- Parcel No. 24-246, 1302 Wolftrap Road, Dominion-Virginia Power: Reclassify the front (western half) of the property from RR-Rural Residential to RC-Resource Conservation).

STAFF REPORTS

Mr. Carter reported that the Chesapeake Bay Local Assistance Department had notified the County that it has approved the latest revisions of the Comprehensive Plan, and he also congratulated Mr. Tim Cross and Ms. Anna Drake for the excellent work they did in writing the revisions.

Mr. Carter asked the members to return their completed questionnaires concerning zoning.

He reported on recent actions of the Board of Supervisors.

Mr. Carter identified October 25 and November 5 as the dates of the initial meetings of the Yorktown Design Guidelines Study Committee, on which Messrs. Heavner and Simasek and Ms. White represent the Commission. He added that Mr. Simasek has agreed to serve as discussion leader for the committee.

COMMISSION REPORTS AND REQUESTS

Ms. White asked if the Commission intends to conduct any work sessions on accessory apartments in the foreseeable future, and Mr. Carter suggested the after the requested questionnaires and been submitted and compiled, the Commission can see what is reflected in them about accessory apartments and decide how best to approach that issue.

FUTURE BUSINESS

Mr. Carter apprised the Commission of applications for future public hearings.

ADJOURNMENT

Chair Semmes called adjournment at 10:40 p.m.

SUBMITTED: _____/s/_____
Phyllis P. Liscum, Secretary

APPROVED: _____/s/_____
Spencer W. Semmes, Chair

DATE: November 14, 2001